



### **Introduction**

TO: Montana Cities, Towns, Counties, Indian Tribes, and Non-Profit Organizations, Agencies, and Citizens Interested in Community Housing Issues

#### **Neighborhood Stabilization Program Statewide Public Comment Forum**

**November 20, 2008 ~ 10 am to 12 pm**

Participate through video conferencing or webinar for more information visit the MDOC NSP website: [http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp)

On July 30, 2008, President Bush signed into law the Housing and Economic Recovery Act of 2008 (HERA). A portion of this act establishes a new Neighborhood Stabilization Program (NSP) to be administered through the U.S. Department of Housing and Urban Development (HUD).

The Neighborhood Stabilization Program provides emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise be abandoned and become a source of blight within communities. In addition, NSP funds can be used to demolish blighted structures and redevelop demolished or vacant properties. At a minimum, the program provides grants to every state to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of values of neighboring homes. Before HERA was signed into law, Senator Max Baucus included a provision that each state would receive at least half of one percent of the total \$3.92 billion designated for the Neighborhood Stabilization Program. As a result of Senator Baucus' efforts, Montana has been allocated \$19.6 million in NSP funds which will be administered by the Montana Department of Commerce (MDOC).

While Montana may not be experiencing the same level of severe foreclosure and subprime lending problems that have occurred in other states, Montana still has significant affordable housing and related community development needs which are as vast and diverse as the state. Potentially, many of these needs can be addressed with the emergency NSP funding.

The State of Montana is required by the NSP Federal Register Notice, published on October 6, 2008, to propose a plan regarding the administration and expenditure of NSP funds. Specifically, the MDOC is required to update its Annual Action Plan for the expenditure of HUD funds in Montana communities, including the Community Development Block Grant (CDBG) Program, Home Investment Partnerships (HOME) Program, and Emergency Shelter Grant (ESG) Program.

The draft “NSP Substantial Amendment Plan Year 2008 Annual Action Plan” was published on MDOC’s NSP website on November 13, 2008. The amendment is open for public comment until November 27, 2008 and is available for review at the following website: [http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp). This document describes the State’s plan for making NSP funds available to Montana cities, towns, counties, Indian Tribes, and non-profit organizations and is consistent with the Federal law and HUD regulations for the program.

The new Neighborhood Stabilization Program is different from the regular State CDBG Program. For example, NSP funds can only be used to demolish a blighted property and cannot be used to rehabilitate any blighted property. While the NSP may potentially provide opportunities for Montana local communities, it will also pose considerable challenges in its statutory and regulatory requirements. In preparing the amendment to the Action Plan, the Montana Department of Commerce drafted the plan with the intent to permit maximum flexibility in the utilization of the NSP funds by communities; however, potential grant applicants should be aware that after the plan is submitted for HUD review and approval, HUD may not allow Montana communities as much flexibility as has been proposed by MDOC. For instance, some states are preparing their amendments to be very restrictive and only identifying specific local governments that will be able to obligate NSP funds. In these states, if a local government is not identified in the amendment, then it will not be able to access its states NSP funds.

Should HUD limit the flexibility that has been proposed in Montana’s plan, MDOC may need to provide much more detailed information regarding the specific uses and who are the eligible recipients of NSP funds. Therefore, MDOC is encouraging eligible recipients to submit potential projects they are considering, including proposed project sites, estimate budget costs, numbers of units to be constructed or demolished, numbers of households to be assisted, etc., and any other additional specific information.

### **Eligible Applicants**

The NSP funding is available to any unit of local government or tribes in the State meeting the definition of an “area of greatest need”. However, all entities must be eligible to receive federal funds as defined in Title III, Section 2304 of HERA and follow all applicable CDBG regulations.

Projects that are initiated by the State, nonprofits, housing authorities or redevelopment authorities require environmental clearance by HUD with no assurance as to the amount of time that would be required for a HUD decision. MDOC believes that it will be able to assure a faster environmental clearance timeframe. For this reason, MDOC is discouraging direct applications or proposals from nonprofits, housing authorities or redevelopment authorities due to the unknown time required for HUD’s environmental clearance. Particularly in view of the limited 18 month timeframe for obligation of NSP funds. These organizations are urged to seek sponsorship of their project application by an incorporated Montana city, town, county, or Indian Tribe.

## **Areas of Greatest Need**

HERA mandates that states distribute funds to the areas of greatest need. MDOC has chosen to establish four need categories consistent with the requirement of HERA in response to public comments received at statewide workshops held in October. The categories are areas with:

- 1) The greatest percentage of foreclosures;
- 2) The greatest percentage of homes financed by a subprime mortgage loan;
- 3) A significant rise in the rate of home foreclosures; and
- 4) A significant extent of housing blight (as defined within the NSP Action Plan Amendment).

## **Eligible Activities**

MDOC will make NSP funds available for the following statutorily eligible activities:

- A. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
- B. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.
- C. Establish land banks for homes that have been foreclosed upon.
- D. Demolish blighted structures.
- E. Redevelop demolished or vacant properties.

MDOC does not plan to establish set-asides for eligible NSP categories.

## **Low, Moderate, and Middle Income**

The funds appropriated under NSP can be used to assist Low, Moderate and Middle Income (LMMI) individuals and families. NSP can assist Low (those incomes that are at or below 50% of AMI), Moderate (those incomes that are at or below 80% of AMI), and Middle Income (those incomes that are at or below 120% of AMI). For those familiar with the regular CDBG Program, the assistance for LMMI is a significant difference between CDBG and NSP. This NSP provision expands the program's ability to assist a larger group of families or individuals with higher incomes. HUD has provided specific income limits for Montana communities based upon these categories. The Low, Moderate, and Middle Income (LMMI) limits are available on the MDOC NSP website: [http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp).

### **Purchase Or Redevelopment Of Abandoned Or Foreclosed Homes To House Families Whose Incomes Do Not Exceed 50 Percent Of Area Median Income (AMI)**

HERA states, “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.”

HERA requires that for every one dollar obligated to projects serving families at 50% of AMI for the purchase or redevelopment of foreclosed or abandoned homes, three dollars can be obligated to any other eligible NSP activities. **Therefore, MDOC will give priority to those foreclosure-related proposals that will meet the 50 percent (low income) area median income (AMI) requirement.** If MDOC does not receive proposals totaling at least 25 percent of the NSP funds for this income group as required by statute, MDOC may delay awarding other grants until additional eligible proposals/activities are identified to meet this requirement. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent (low income) AMI requirement.

### **Blighted Properties**

Potential applicants for NSP should pay particular attention to the NSP eligible use ‘D’ activity which allows demolition of deteriorated or dilapidated structures. Due to a combination of several factors, many Montana communities have significant numbers of vacant or even occupied, seriously dilapidated structures that constitute a serious negative effect on property values, discourage community reinvestment, and pose a threat to public safety and health. Under the NSP Program, communities can identify the blighted residential properties and utilize the NSP funds to demolish vacant or even occupied (if done on a voluntary basis) deteriorated or dilapidated structures, and provide quality replacement housing for the assisted household. This option also provides the opportunity to replace aged, deteriorated mobile homes with decent housing.

### **Land Banking vs. Land Trusts**

Some confusion has arisen regarding the distinction between land banks and land trusts. For the purposes of this draft Action Plan, “land banks” are defined as the purchase of real estate by a public entity or non-profit organization with no commitment to subsequent redevelopment or provision of affordable housing. The implementing October 6, 2008 NSP regulations from HUD discourage those situations where the proposal is simply to establish a land bank and merely acquire property rather than carrying out other activities intended to arrest neighborhood decline, such as demolition or facilitating redevelopment of the property. HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods, or that this is the best use of limited NSP funds, absent a redevelopment plan. Therefore, NSP regulations require that a land bank may not hold a property for more than ten years without obligating the property for a specific, eligible redevelopment activity in accordance with NSP requirements.

In contrast, community land trusts are a real estate ownership mechanism whereby the land on which a unit is constructed is held in trust, usually in perpetuity. NSP applicants are welcome to propose the use of land trusts under NSP eligible uses B and E, so long they demonstrate that the objectives and tight time-frames of the NSP program can be achieved.

### **Distribution and Uses of Funds**

MDOC will use a Request for Proposals (RFP) process to solicit proposals from local governments, tribes, and other eligible recipients to implement projects on a local level and will rely on the areas of greatest need as described in the Action Plan to focus the allocation of NSP funds. This procedure is proposed based upon the emergency nature of the assistance and HUD's requirement that the States obligate NSP funds within 18 months of HUD's approval of the Action Plan Amendment. Any NSP funds that are not obligated, within the 18 months, will revert to the Federal Treasury.

The October 6, 2008 Notice states, "Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity." The term "obligation" is defined as follows: "Obligation means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period." Note that this definition goes beyond simply the awarding of a grant or contract to a local community recipient. As described in the NSP Notice, **if the funds are not used or at least obligated for a specific NSP activity within 18 months of receipt of the grant by the state, HUD will recapture the amount of the unused or unobligated funds.**

Upon approval of Montana's Action Plan Amendment by HUD, MDOC will issue a RFP and begin accepting applications on a first come, first served basis. There is no deadline for submitting NSP applications.

### **Grant Amounts**

MDOC anticipates that the amount of funds that can be applied for and approved will vary with population and needs of each community. The State will not impose a ceiling or maximum for the amount of a grant request. However, as eligible recipients prepare their NSP proposals, applicants should keep in mind the limited amount of funding available relative to the eligible statewide needs. MDOC will strive to distribute NSP funds fairly and reasonably given the strong interest in NSP statewide and the limited timeframe to obligate the funds.

### **Award of Funds**

As required by HERA, NSP funds must be used or obligated within 18 months of receipt of the State's grant. In addition, the October 6, 2008 NSP Notice states, "All NSP grantees must expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP funds within 4 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended." Therefore, the State will

implement an obligation-based grant approach for the NSP projects, to ensure that as much as possible of the \$19.6 million of NSP funds is used or obligated during the required 18 month timeframe for the program.

To implement the obligation-based grant approach, MDOC will draft initial contracts with NSP grantees based on an identified scope of work; however, funds will only be committed through a MDOC-approved, successive contract amendment(s) as actual activities are obligated as defined in the amendment.

There are no proposed set-asides for different NSP project activities. Because of the very short time frame allowed, funds will be only committed to grant recipients as they are obligated for specific activities, to avoid being in the position of having to reallocate awarded funds to other communities because of delays in project implementation. The State's goal will be to disperse all of the \$19.6 million awarded to Montana according to the tight timeframe set forth in HERA.

### **Initial Funding Round**

Applicants may submit proposals at any time after the initial RFP has been issued by MDOC. The RFP will be published on Montana's NSP website:

[http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp) .

All proposals must be reasonable and appropriate given the limited amount of funds available statewide. Please note that there is no deadline for submitting NSP applications.

### **Administrative Funds**

MDOC will share with grantees the 10 percent of the NSP funds potentially available for administrative uses as follows: Up to five percent (or \$980,000) will be retained by the State to fulfill the administrative and monitoring requirements of the program, anticipated for the next three to four years. Up to five percent (5%) will be available to grantees receiving NSP funds for grant administration.

**Communities will only be able to draw upon administrative funds in proportion to the extent that there are actual obligations and firm commitments made to carry out specific project activities.**

The HUD Notice states, "For all grantees, including states, the 10 percent limitation applies to the grant as a whole." Therefore, the state can only allow the expenditure of administrative funds for project costs in direct proportion to the amount of funds obligated for or expended on eligible NSP activities. This limitation applies equally to the State and local NSP grant recipients.

### **Public Input**

Prior to the publication of this document, the MDOC has solicited initial comments from the public to assist in drafting this Action Plan Amendment, including presentations at the Montana League of Cities and Towns Annual Conference in Missoula on October 9;

at the Montana Association of Counties in Hamilton on September 24; and at four statewide MDOC housing workshops in October held in Glendive, Billings, Missoula, and Great Falls. MDOC staff also had conference calls that included several Indian Tribes in Montana, as well as the Governor's Office of Economic Development and HUD state field office representatives. In addition, MDOC has received numerous e-mails, letters, and phone calls with locally elected officials and non-profit organizations.

### **Upcoming Conference Call and METNET**

MDOC has scheduled a state-wide opportunity for public comment through a combined Webinar (computer-based conference call) and METNET (videoconferencing) to be held Thursday, November 20 from 10:00 A.M. – Noon. MDOC staff will present the State's NSP Action Plan amendment and provide an opportunity for comments and questions.

As stated earlier, communities are encouraged to submit their ideas for potential NSP projects at this time, including a description of project activities, proposed project sites, estimated budget costs, numbers of units to be constructed or demolished, number of households to be assisted, etc. These should be sent to Jennifer Olson, CDBG Program Specialist, at the address noted below.

Persons who would like to comment on this amendment may send these comments to:

Leslie Edgcomb Consolidated Plan Coordinator Montana Department of Commerce Housing Division 301 S. Park Ave, 2nd Floor P.O. Box 200545 Helena, MT 59620 <a href="mailto:ledgcomb@mt.gov">ledgcomb@mt.gov</a>	Jennifer Olson CDBG Program Specialist Montana Department of Commerce Community Development Division 301 S. Park Ave, 2nd Floor P.O. Box 200523 Helena, MT 59620 <a href="mailto:jeolson@mt.gov">jeolson@mt.gov</a>
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Comments must be received by 5:00 P.M. on Thursday, November 27, 2008.